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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 2782 OF 2019**

Krish Jignesh Giri Minor through his Natural
Guardian Sheetal J Giri ...Petitioner
Versus
State Education and Sports Department & Ors ...Respondents

**WITH
WRIT PETITION (L) NO. 2712 OF 2019**

Bahujan Vidyarthi Parishad ...Petitioner
Versus
State Education and Sports Department of
Government of Maharashtra & Ors ...Respondents

Ms Reshma Mutha, *for the Petitioner in WPL/2712/19.*
Ms Jyoti Chavan, AGP, *for the Respondent-State in both matters.*
Mr Ravi Gadagkar, *with Aniket Ramsubhe & Suvarna Ambre, i/b*
Ajay Basutkar, for the Petitioner in WPL/2782/19.
Mr Girish S Godbole, *with Ms Manorama Mohanty & Ms Ruchi*
Doshi, i/b SK Srivastav & Co, for Respondents Nos. 3 & 4 in
both matters.

**CORAM: S.C. DHARMADHIKARI &
G.S. PATEL, JJ
DATED: 4th October 2019**

PC:-

1. Leave to amend Writ Petition (L) No. 2712 of 2019. Amendment is to be carried out within one week from today. The name of the original petitioner is to be deleted and substituted with the name of the minor student, Sakshi Samir Mohite.
2. Writ Petition (L) No. 2712 of 2019 claims that gross injustice has been done to the father of the minor girl child, Sakshi Samir Mohite. He has been seeking admission for her to the First Year Junior College (FYJC) in HSC Board, namely, Higher Secondary Certificate State Board in Maharashtra for the academic year 2019-2020 in an on-line admission process. He has set out the procedure of first-come-first-served (FCFS). These are special rounds of on-line admission. The students can apply to colleges where there are vacancies.
3. The 4th Respondent is the Chairman of the Management Committee which runs the Mithibai College of Arts (Junior College) at Vile Parle, Mumbai. Sakshi desired admission to this college. She applied in the FCFS round on 23rd August 2019. She was allotted this college. The vacancy position enabled this college to admit her. However, admission was denied and Sakshi and her father left the matter at that but afterwards approached the original petitioner Parishad, who took up her cause.
4. Since it was a cause taken up for the benefit of a girl child who has been allotted the 4th Respondent college purely on humanitarian grounds, we took up this Petition. We did not apply any technicalities, for, ordinarily, we could have thrown out this

Petition as it was not presented by the student concerned through her parents, but by a distinct entity and which otherwise is not recognized in the admission process. It could not have participated therein. Mr Sandip Prakash Kedare claiming to be a State Executive President of Bahujan Vidyarthi Parishad had addressed a letter to the Education Department, and particularly the concerned official posted by such Department at Mumbai. The language of this letter, on a perusal of the record, disturbs us. It is intemperate and clearly intimidating, and designed to be so. Mr Kedari says he is an advocate enrolled at our Bar. If he is, then he must be aware that the discourse of law is the discourse of civility, not of intemperance, vituperation or intimidation. We record our immense disapproval of the tone, tenor and language of his communication and we make it clear that we will not countenance any such representation again. We do not think that public officials should be coerced to work under duress, threat or force exerted by anybody in this fashion. In a democratic set up, we do not think that it is for these self-styled and so-called Parishads to dictate what authorities should or should not do. If the authorities cannot, in law, legitimately take any action against the college concerned, then it was not for this Parishad to have insisted on such action being taken or to precipitate matters.

5. We have resolved it for it is stated now on instructions that the letter, a copy of which is in the file and perused by us, dated 23rd August 2019, and particularly the threat therein, stands unconditionally withdrawn.

6. Since the communication from this Parishad dated 23rd August 2019 addressed to the Deputy Director of Education, School

Education Department, Government of Maharashtra, Charni Road, Mumbai stands withdrawn unconditionally, the other communication dated 7th September 2019, a copy of which is at Exhibit “J” to the Petition also will not survive and also stands similarly unconditionally withdrawn.

7. It is stated that in the anxiety to obtain admission for this girl child this Parishad has taken up the cause and purely in her interest. There is nothing personal in that matter and nor does the Parishad desire to malign the institution in any manner. We accept that statement.

8. We do not want the relations to be strained for Sakshi, being otherwise eligible, can be admitted to this institution. This the stand of the institution.

9. The institution has prepared a list and which is duly approved even by the Education Department. It reflects that in so far as the Arts Section is concerned in this Junior College, there are enough vacant seats to accommodate Sakshi. If that is the position, we are thankful to Mr Godbole, who has stated on instructions that even now, albeit belatedly, Sakshi will be admitted to this course in this college provided she, together with her parents, attend the office of this college, pay the necessary fees, and produce the requisite and relevant documents, together with the formal application for enrolment and admission of Sakshi.

10. It is clear that Sakshi will be admitted at her risk, for she has missed a considerable and substantial part of the first term. She will have to make that up including if necessary and required to take an examination internally held. She will also have to comply with strict rule of attendance imposed by this college and the minimal percentage of attendance will have to be fulfilled by Sakshi because of this belated admission. She will derive no concession or relaxation in so far as the implementation of the rule concerning attendance, taking up of internal examinations and submission of projects or project reports. On such conditions, Sakshi may be admitted to this institution for FYJC Arts course.

11. Mr Godbole makes two submissions, which we note for completeness. The first is that the initial refusal was not arbitrary. He submits that the intake of the college was increased despite the college pointing out the existing crowding in Arts and Commerce, and that there is no physical infrastructure to accommodate more students. There are plenty of vacancies in Science, but the demand is for Arts and Commerce. The college is not in a position to suddenly ramp up its existing physical or other infrastructure. Therefore, he submits, and rightly, that once she has taken admission, Sakshi and her parents cannot be heard hereafter to complain on this score. We accept this explanation, and make it a condition that will apply to Sakshi. We therefore clarify that just because there are added students now and the class rooms are not enough to accommodate all those attending the lectures, should Sakshi suffer inconvenience because of that, neither she nor her parents will raise any grievance with the management or with the Education Department in that behalf.

12. Further, he points out that extra tutorials or special classes may not be possible for Sakshi. She will have to make her own arrangements to catch up on what she has missed. This also we will accept and impose as a condition. Sakshi will not be entitled to complain that no special classes, tests, internal examinations or tutorials are being made available to her.

13. Writ Petition (L) No. 2712 of 2019 is disposed of accordingly and in these terms.

14. This order is passed in the presence of Sakshi and her parents. They are before us in Court.

15. Writ Petition (L) No. 2782 of 2019 is by Krish Jitnesh Giri. Save and except the modification that the minor is seeking admission to FYJC, namely, standard 11 in the commerce stream to the Mithibai College of Commerce (Junior College), Vile Parle (West), Mumbai and has approached this court through his natural guardian, there is no difference in the facts and circumstances in this Petition and in the companion Petition which is disposed of today.

16. Writ Petition (L) No. 2782 of 2019 is also disposed of with similar directions and identical arrangements.

17. We specifically reject Mr. Gadagkar's submission on behalf of Krish Jitnesh Giri that his minimum attendance requirement will be computed from today or the day he takes admission and not from the beginning of the academic year. This means that Krish will have

to compulsorily attend all classes within the norms to fulfil the minimum attendance requirement. The same will also apply to Sakshi in the Arts stream.

(S.C. DHARMADHIKARI, J)

(G. S. PATEL, J)